

**JAMES P. MORAN**  
8TH DISTRICT OF VIRGINIA

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**Congress of the United States**  
**House of Representatives**

May 28, 2010

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The Honorable Eric H. Holder, Jr.  
Attorney General  
United States Department of Justice  
950 Pennsylvania Avenue, N.W.  
Washington, D.C. 20530

Dear Attorney General Holder:

I am writing in regards to a recent decision by the General Services Administration (GSA) that federal facilities located in the District of Columbia do not have to pay an impervious area charge levied by the District of Columbia Water and Sewer Authority (DCWASA) to pay for stormwater runoff mitigation services. The GSA declared DCWASA's impervious service stormwater fee a tax, thus claiming federal agencies are exempt from payment. I understand that the U.S. Department of Treasury is reviewing this decision and I urge you to reverse it and to require these charges be paid by all federal facilities located in our Nation's Capitol.

If left standing, the GSA decision would significantly undercut commitments made by President Obama in working to restore the nation's largest freshwater estuary, the Chesapeake Bay, by hampering DCWASA's ability to control runoff pollution to the Bay – the largest growing source of pollution to the Bay. The Federal government is the largest landowner within the District of Columbia and removing this property from the balance sheet of D.C.'s stormwater management agency unfairly and unnecessarily shifts the cost for managing and reducing stormwater runoff to other ratepayers. Further, the decision runs counter to the plain text of the Clean Water Act (CWA) which specifies that federal facilities are responsible for paying reasonable charges to municipalities for the purposes of controlling runoff. Finally, the decision contradicts long-standing legal precedent established by the Supreme Court in *Massachusetts v. U.S.* (435 U.S. 444 (1978)) which found that fees charged to a federal facility by a municipality do not constitute unconstitutional taxation if those fees are non-discriminatory, are based on a fair approximation of the actual costs of services, and produce revenues that do not exceed the cost of benefits provided. The stormwater fees charged by DCWASA meet this test.

The Federal government must be a partner in improving water quality including the payment of reasonable fees for water pollution control services, including stormwater mitigation efforts. As noted earlier, the decision to refuse payment to DCWASA makes water quality gains more difficult within the Chesapeake Bay watershed and places an undue financial burden on residents and businesses in the capitol region. This is unacceptable especially given the current economic situation facing municipalities and their ratepayers.

I strongly urge you to require Federal facilities to pay the impervious area charges as billed by DCWASA. Furthermore, I encourage you to direct all federal facilities nationwide to pay local stormwater fees that are used to cover the cost of managing stormwater runoff and reducing water pollution.

Thank you for your attention to this matter.

Sincerely,

A handwritten signature in black ink, appearing to read "Jim Moran", with a long horizontal flourish extending to the right.

James P. Moran

Cc: Lisa Jackson, Administrator, Environmental Protection Agency  
Nancy Sutley, Chair, Council on Environmental Quality  
Martha Johnson, Administrator, Government Services Administration  
Gene L. Dodaro, Acting Comptroller, Government Accountability Office